

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2015-22

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING A FUNCTIONALLY EQUIVALENT
GLOBAL RESELLER EXPEDITED PACKAGE 1
NEGOTIATED SERVICE AGREEMENT

(December 18, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2281.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service notice of filing an additional Global Reseller Expedited Package 1 (GREP 1) contract.² Global Reseller Expedited Package Contracts provide discounted prices for Priority Mail Express International (PMEI) and/or Priority Mail International (PMI) to resellers who, in turn, market PMEI and PMI at discounted prices to their customers, particularly small and medium-sized businesses. Notice at 4.

Prices and classifications not of general applicability for GREP contracts were previously established by Governors' Decision No. 10-1, issued March 24, 2010.³ In

¹ Notice and Order Concerning Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, December 11, 2014 (Order No. 2281).

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package 1 Negotiated Service Agreement, December 9, 2014 (Notice).

³ Decision of the Governors of the United States Postal Service on the Establishment of Prices and Classifications for Global Reseller Expedited Package Contracts (Governors' Decision No. 10-1). See Docket Nos. MC2010-21 and CP2010-36, Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, March 29, 2010 (Request).

Order No. 445, the Commission approved the addition of the Global Reseller Expedited Package Services 1 product (MC2010-21) to the competitive products list, and included a GREP 1 contract (CP2010-36) within the product.⁴ That GREP 1 contract serves as “the baseline agreement for comparison of potentially functionally equivalent agreements under the GREP Contracts 1 grouping”.⁵ Notice at 1-2.

The Postal Service intends that the instant contract will become effective on January 1, 2015.⁶ *Id.* at 3. The agreement will remain in effect for one calendar year, subject to early termination provisions. *Id.* Attachment 1 at 5.

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the instant GREP 1 contract, and the supporting financial model filed under seal that accompanied the Notice. Based upon that review, the Public Representative concludes that the instant contract is functionally equivalent to the baseline agreement. In addition, it appears that the negotiated prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

⁴ Docket Nos. MC2010-21 and CP2010-36, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, April 22, 2010 (Order No. 445).

⁵ The Commission has subsequently approved a number of additional GREP 1 contracts for inclusion within the product. See Docket No. CP2011-55, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, January 13, 2011 (Order No. 648); Docket No. CP2011-58, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, February 2, 2011 (Order No. 660); Docket No. CP2011-65, Order Approving Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, June 30, 2011 (Order No. 755); Docket No. CP2012-14, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, January 27, 2012 (Order No. 1177); Docket No. CP2012-21, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, May 9, 2012 (Order No. 1337); Docket No. CP2013-20, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, December 10, 2012 (Order No. 1571); Docket No. CP2013-49, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, February 26, 2013 (Order No. 1669); Docket No. CP2014-29, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, February 28, 2014 (Order No. 2004); Docket No. CP2014-30, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, February 28, 2014 (Order No. 2006).

⁶ The Postal Service also indicates the intention to file a modification that simultaneously terminates another contract with the same customer. (This is the GEPS 3 agreement subject to Docket No. CP2014-49). Notice at 3, footnote 7.

Functional Equivalence. The Postal Service states that the instant contract is “substantially similar to the contract filed in Docket No. CP2010-36”, which serves as the baseline agreement. *Id.* at 3. More specifically, the Postal Service asserts that the “functional terms” of the instant contract “are the same as those of the [baseline] agreement,” and that the instant contract “shares the same cost and market characteristics,” as well. *Id.* at 3-4.

However, the Postal Service identifies differences between the instant contract and the baseline agreement. In general, the differences include: the customer’s (Reseller’s) name and address;⁷ revision to “Whereas” paragraph on page 1; references to “Priority Mail Express International” instead of “Express Mail International”; a revised definition of “qualifying mail” in Article 3; other multiple revisions to numerous existing articles, as well as addition and renumbering of the articles. *Id.* at 5-7.

Despite these differences, the Postal Service maintains that “[n]othing detracts from the conclusion that this agreement is ‘functionally equivalent in all pertinent respects’ to the contract that is the subject of Docket No. CP2010-36”. *Id.* at 7. Based on the reviewed documentation, the Public Representative agrees and concludes that the instant GREP 1 contract is functionally equivalent to the baseline agreement.

Requirements of 39 U.S.C. § 3633. Pursuant to section 3633(a), prices for competitive products must ensure that each competitive product covers its attributable costs, not result in subsidization of competitive products by market dominant products, and enable competitive products collectively contribute an appropriate share to the institutional costs of the Postal Service.

The Postal Service’s financial model does not directly address whether the addition of the instant contract to the GREP 1 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service’s financial model indicates that the negotiated rates in the instant contract will cover costs, as well as exceed the minimum coverage approved in Governor’s Decision

⁷ This difference was noticed by the Public Representative, and was not identified by the Postal Service.

No. 10-1. Assuming that the GREP 1 product currently covers its attributable costs,⁸ the addition of the instant contract should allow the GREP 1 product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the GREP 1 product should improve the likelihood that complete products collectively contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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⁸ In the FY 2013 Annual Compliance Determination (ACD) Report, the Commission determined that the GREP 1 product covered costs. See FY 2013 Annual Compliance Determination Report, March 27, 2014 at 87-88.